

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

GARY CHENEVERT

PLAINTIFF

VERSUS

CIVIL ACTION NO. 4:10CV113-P-S

**CG CONSTRUCTORS, A Joint Venture,
Consisting of MASSMAN CONSTRUCTION CO.,
TRAYLOR BROS., INC., and KIEWIT
SOUTHERN CO., Individually and as
Joint Venturers, Jointly and Severally**

DEFENDANTS

ORDER

This cause is before the Court on the defendant GC Constructors' Motion for Summary Judgment [55] and Motion for Summary Judgment Regarding Seaman Status [210]. The Court, having reviewed the motions, the responses, the briefs of the parties and being otherwise fully advised in the premises, finds as follows, to-wit:

That the plaintiff has demonstrated a triable issue of fact with regard to the issues of seaman status raised by the defendant in each of the dispositive motions presently before the Court. Accordingly, summary judgment is inappropriate. In ruling on a motion for summary judgment, the court is not to make credibility determinations, weigh evidence, or draw from the facts legitimate inferences for the movant. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986). Rather, the evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in its favor. Id. at 255. The United States Supreme Court has granted the trial court some degree of flexibility when confronted with a summary judgment motion: "Neither do we suggest . . . that the trial court may not deny summary judgment in a case where there is reason to believe that the better course would be to proceed to a full trial." Id.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the defendant GC Constructors' Motion for Summary Judgment [55] and Motion for Summary Judgment Regarding Seaman Status [210] are not well-taken and should be, and hereby are, DENIED.

SO ORDERED, this the 22nd day of September, 2011.

/s/ W. Allen Pepper, Jr.

W. ALLEN PEPPER, JR.

UNITED STATES DISTRICT JUDGE